IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2340 OF 1983

The Federal Bank Ltd. .. Plaintiffs

Vs.

Great India Net Industry & Ors. .. Defendants

Mr.Anil Menon for the plaintiffs

Mr.Ashok Bhogani for the defendants

CORAM : S.U.KAMDAR, J

DATED : 27TH JUNE, 2005

P.C.:

1. Mr. Ashok Bhogani appearing for defendant no.2 (b) and 2(c) has appeared before me and made a statement that the defendants are not giving any instruction in the matter. Therefore, he is unable to prosecute the suit. Defendant no.2 furthermore made a statement on the last occassion that in so far as defendant no.2(a) is concerned, his client 2(b) and 2(c) are the only legal heirs. In view thereof, the name of defendant no.2 (a) was allowed to be deleted and amendment has already been carried out by the plaintiffs.

2. The plaintiff bank has filed a suit for the recovery of sum of Rs.7,17,635.51 with interest thereon @ 18% p.a. on the principal amount of Rs.5,32,292.21. Some of the facts of the present case are briefly enumerated as under:

3. Plaintiff is a scheduled bank interalia carrying on business of banking. Sometime in or about March 1975, the defendants applied to plaintiff bank for various finance facilities and pursuant thereto defendant granted temporary Overdrafts, Import goods loan account and overdue bills facility to the plaintiff. In respect of the same, defendant executed Demand Promissory Note, Guarantee and Agreement for Bills purchased and discounted. Defendants also gave security of Fixed Deposit receipt bearing no.85349/741/76 for Rs.61,792.20. However, subsequently, under the terms and conditions of the said facilities granted defendants were required to make various payments in instalments from time to time. However, defendants did not make payment on its due date and instalment became due and payable. Thus, account became irregular. Plaintiffs by their advocates

letter dt.30.11.82 called upon the defendants to make payment of sum of Rs.6,14,398.56 along with interest covered under the said 3 facilities. However, defendants neither replied to the said letter nor made payment as demanded after adjusting the Fixed Deposit amount lying with the plaintiffs bank and the various insurance policies surrendered by the defendants and the amount received therefrom is also adjusted by the plaintiffs. At the foot of the account, according to the plaintiffs there is an amount due and payable by the defendants to the plaintiffs of Rs.717635.51 as on the date of the filing of the suit. Plaintiffs have filed documents including statement of account maintained by the plaintiffs of the defendants in respect of the said three facilities and the said statement of account is duly certified by the plaintiffs under the Bankers Books Evidence Act. Plaintiffs have also filed several books including demand promissory note and acknowledgement of liability. Plaintiffs have also filed affidavit of examination in chief of one Vinay Kumar Seth, Chief Manager being marked as Exh.P-1 collectively who has deposed on the basis of record maintained by the

plaintiffs in the ordinary course of business.

4. The learned counsel, Mr.Ashok Bhogani for the defendants makes a statement that he is unable to proceed with the matter. He has no instruction and inspite of repeatedly calling upon the defendants to proceed with the matter, they have failed and neglected to give necessary instruction in the matter. In the aforesaid circumstances, there is no cross-examination to the oral evidence laid by the plaintiffs. I am satisfied on the basis of the documentary and oral evidence plaintiffs have established their care and thus, entitled to the decree. Suit decreed in terms of prayer clause (a). Defendant to pay cost of the suit.

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Mr.Anil Menon for the plaintiffs

None for the defendants

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